

Executive Summary – Enforcement Matter – Case No. 51628
Kenneth Mowles dba Captain Ken's RV Park
RN107586570
Docket No. 2015-1804-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Captain Ken's RV Park, 501 Shaver Road near Aransas Pass, Aransas County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 22, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,025

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$135

Total Due to General Revenue: \$1,890

Payment Plan: 14 payments of \$135 each

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: November 2, 2015 through November 13, 2015

Date(s) of NOE(s): November 13, 2015

Executive Summary – Enforcement Matter – Case No. 51628
Kenneth Mowles dba Captain Ken's RV Park
RN107586570
Docket No. 2015-1804-PWS-E

Violation Information

Failed to collect routine distribution water samples for coliform analysis and failed to post public notification and provide a copy of the public notification to the Executive Director (“ED”) regarding the failure to conduct routine coliform monitoring [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A) and (f) and TEX. HEALTH & SAFETY CODE § 341.033(d)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the ED;

ii. Provide public notification regarding the failure to conduct routine coliform monitoring during the months of February 2015 through June 2015 and provide a copy of each public notification to the ED; and

iii. Begin complying with the applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting.

b. Within 45 days, submit written certification to demonstrate compliance with a.i. and a.ii.

c. Within 225 days, submit written certification to demonstrate compliance with a.iii.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

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Docket No. 2015-1804-PWS-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Rajesh Acharya, Enforcement Division,
Enforcement Team 5, MC 149, (512) 239-0577; Melissa Cordell, Enforcement Division,
MC 219, (512) 239-2483

TCEQ SEP Coordinator: N/A

Respondent: Kenneth Mowles, Owner, Captain Ken's RV Park, 501 Shaver Road,
Aransas Pass, Texas 78336

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	16-Nov-2015	Screening	9-Dec-2015	EPA Due	31-Dec-2015
	PCW	30-Dec-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	Kenneth Mowles dba Captain Ken's RV Park		
Reg. Ent. Ref. No.	RN107586570		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	51628	No. of Violations	1
Docket No.	2015-1804-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jessica Schildwachter
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,050
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	75.0%	Adjustment	Subtotals 2, 3, & 7	\$787
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Notes: Enhancement for 11 NOVs with similar violations and one order with a denial of liability.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$200
Estimated Cost of Compliance \$400

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,837
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OTHER FACTORS AS JUSTICE MAY REQUIRE	10.2%	Adjustment	\$188
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture avoided costs of compliance associated with Violation No. 1.

Final Penalty Amount	\$2,025
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,025
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$2,025
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Screening Date 9-Dec-2015

Docket No. 2015-1804-PWS-E

PCW

Respondent Kenneth Mowles dba Captain Ken's RV Park

Policy Revision 4 (April 2014)

Case ID No. 51628

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107586570

Media [Statute] Public Water Supply

Enf. Coordinator Jessica Schildwachter

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	11	55%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 75%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for 11 NOVs with similar violations and one order with a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 75%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 75%

Screening Date 9-Dec-2015

Docket No. 2015-1804-PWS-E

PCW

Respondent Kenneth Mowles dba Captain Ken's RV Park

Policy Revision 4 (April 2014)

Case ID No. 51628

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107586570

Media [Statute] Public Water Supply

Enf. Coordinator Jessica Schildwachter

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A) and (f) and
Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of February 2015 through August 2015 and failed to post public notification and provide a copy of the public notification to the Executive Director regarding the failure to conduct routine coliform monitoring during the months of February 2015 through June 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Failure to collect coliform monitoring samples and post public notice could expose persons served by the Facility to contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 7

211 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,050

Seven monthly events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,050

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$200

Violation Final Penalty Total \$2,026

This violation Final Assessed Penalty (adjusted for limits) \$2,026

Economic Benefit Worksheet

Respondent Kenneth Mowles dba Captain Ken's RV Park
Case ID No. 51628
Reg. Ent. Reference No. RN107586570
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	2-Nov-2015	31-Aug-2016	0.83	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$125	31-May-2015	31-Aug-2016	1.25	\$8	n/a	\$8

Notes for DELAYED costs

The delayed cost includes the estimated amount to implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that public notice is posted and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance. The other delayed cost includes the estimated amount to ensure that the delinquent public notices (\$25 per notification x five notifications) are provided to persons served by the Facility and a copy of each public notice is provided to the Executive Director, calculated from the first date the public notice was due to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$175	1-Feb-2015	31-Aug-2015	1.50	\$13	\$175	\$188
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to conduct routine coliform sampling (\$25 x seven missed samples), calculated for the months sampling was not conducted.

Approx. Cost of Compliance

\$400

TOTAL

\$200



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN604637975, RN107586570, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN604637975, Kenneth Mowles **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN107586570, CAPTAIN KEN'S RV PARK **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 0 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 501 SHAVER ROAD NEAR ARANSAS PASS, ARANSAS COUNTY, TEXAS

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
0040058

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: December 09, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 09, 2010 to December 09, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jessica Schildwachter

Phone: (512) 239-2617

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 04/23/2015 ADMINORDER 2014-1397-PWS-E (1660 Order-Agreed Order With Denial)
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(1)
30 TAC Chapter 290, SubChapter D 290.42(e)(3)
Description: Failed to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection.
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.39(e)(1)
30 TAC Chapter 290, SubChapter D 290.39(h)(1)
30 TAC Chapter 290, SubChapter D 290.39(m)
5A THSC Chapter 341, SubChapter A 341.035(a)
Description: Failed to submit plans and specifications to the Executive Director for review and approval prior to the establishment of a new public water supply and failed to notify the Executive Director of the startup of a new public water supply.

N/A

N/A

N/A

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

Page 2

- 7 Date: 08/31/2015 (1289661) CN604637975
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: APR/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 04/2015.
- 8 Date: 09/15/2015 (1289661) CN604637975
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 06/2015 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 9 Date: 10/05/2015 (1289661) CN604637975
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: MAY/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 05/2015.
- 10 Date: 10/12/2015 (1289661) CN604637975
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 07/2015 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 11 Date: 10/30/2015 (1289661) CN604637975
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 08/2015 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: JUNE/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 06/2015.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:
N/A

Component Appendices

Appendix A

All NOVs Issued During Component Period 12/9/2010 and 12/9/2015

- 1* Date: 04/28/2015 (1289661) CN604637975
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 02/2015 - Failure to collect and/or submit any routine
 monitoring sample(s) within the required timeline.
- 2* Date: 05/14/2015 (1289661) CN604637975
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 03/2015 - Failure to collect and/or submit any routine
 monitoring sample(s) within the required timeline.
- 3* Date: 06/15/2015 (1289661) CN604637975
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 04/2015 - Failure to collect and/or submit any routine
 monitoring sample(s) within the required timeline.
- 4* Date: 07/10/2015 (1289661) CN604637975
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
Description: FEB/TCR Routine MR PN Posting and Reporting Violation - Failure to submit a
 signed certificate of delivery to the Executive Director certifying that public notice
 was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period
 that public notice was required for failing to conduct routine coliform monitoring
 for the month of 02/2015.
- 5* Date: 07/16/2015 (1289661) CN604637975
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 05/2015 - Failure to collect and/or submit any routine
 monitoring sample(s) within the required timeline.
- 6* Date: 07/31/2015 (1289661) CN604637975
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
Description: MAR/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit
 a signed certificate of delivery to the Executive Director certifying that public
 notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time
 period that public notice was required for failing to conduct routine coliform
 monitoring for the month of 03/2015.
- 7* Date: 08/31/2015 (1289661) CN604637975

			Classification: Moderate
	Self Report?	NO	For Informational Purposes Only
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)	
	Description:	APR/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 04/2015.	
8	Date:	09/15/2015 (1289661)	CN604637975
			Classification: Moderate
	Self Report?	NO	For Informational Purposes Only
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)	
	Description:	TCR Routine MR Violation 06/2015 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.	
9	Date:	10/05/2015 (1289661)	CN604637975
			Classification: Moderate
	Self Report?	NO	For Informational Purposes Only
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)	
	Description:	MAY/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 05/2015.	
10	Date:	10/12/2015 (1289661)	CN604637975
			Classification: Moderate
	Self Report?	NO	For Informational Purposes Only
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)	
	Description:	TCR Routine MR Violation 07/2015 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.	
11	Date:	10/30/2015 (1289661)	CN604637975
			Classification: Moderate
	Self Report?	NO	For Informational Purposes Only
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)	
	Description:	TCR Routine MR Violation 08/2015 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.	
			Classification: Moderate
	Self Report?	NO	For Informational Purposes Only
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)	
	Description:	JUNE/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 06/2015.	

* NOVs applicable for the Compliance History rating period 9/1/2010 to 8/31/2015

Appendix B

All Investigations Conducted During Component Period December 09, 2010 and December 09, 2015

(1289661)

Item 1 November 10, 2015 For Informational Purposes Only

(1289753)

Item 2 November 13, 2015 For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2010 and 08/31/2015.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
KENNETH MOWLES DBA CAPTAIN	§	TEXAS COMMISSION ON
KEN'S RV PARK	§	
RN107586570	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2015-1804-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Kenneth Mowles dba Captain Ken's RV Park ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that he has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 501 Shaver Road near Aransas Pass, Aransas County, Texas (the "Facility") that has approximately 22 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted from November 2, 2015 through November 13, 2015, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of February 2015 through August 2015 and did not post public notification and provide a copy of the public notification to the Executive Director regarding the failure to conduct routine coliform monitoring during the months of February 2015 through June 2015.
3. The Respondent received notice of the violations on November 20, 2015.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect routine distribution water samples for coliform analysis and failed to post public notification and provide a copy of the public notification to the Executive Director regarding the failure to conduct routine coliform monitoring, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A) and (f) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Two Thousand Twenty-Five Dollars (\$2,025) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid One Hundred Thirty-Five Dollars (\$135) of the penalty. The remaining amount of One Thousand Eight Hundred Ninety Dollars (\$1,890) shall be paid in 14 monthly payments of One Hundred Thirty-Five Dollars (\$135) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to

meet the payment schedule of this Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Order.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand Twenty-Five Dollars (\$2,025) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Kenneth Mowles dba Captain Ken's RV Park, Docket No. 2015-1804-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122;
 - ii. Provide public notification regarding the failure to conduct routine coliform monitoring during the months of February 2015 through June 2015 and provide a copy of each public notification to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - iii. Begin complying with the applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.c below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i and 2.a.ii; and
- c. Within 225 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.iii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date


For the Executive Director

6/29/12
Date


I, the undersigned, have read and understand the attached Agreed Order in the matter of Kenneth Mowles dba Captain Ken's RV Park. I am authorized to agree to the attached Agreed Order on behalf of Kenneth Mowles dba Captain Ken's RV Park, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Kenneth Mowles dba Captain Ken's RV Park waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

3-11-16
Date

DBA Capt. Ken's RV Park
Kenneth Mowles
Name (Printed or typed)
Authorized Representative of
Kenneth Mowles dba Captain Ken's RV Park

Owner
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.